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20 CHRISTOPHER J. HADNAGY, an  
21 individual; and SOCIAL-ENGINEER,  
22 LLC, a Pennsylvania limited liability  
23 company,

24 Plaintiffs,

25 v.

26 JEFF MOSS, an individual; DEF CON  
27 COMMUNICATIONS, INC., a  
Washington corporation; and DOES 1-  
10; and ROE ENTITIES 1-10, inclusive,

28 Defendants.

Case No.: 2:23-cv-01345-CDS-BNW

DEFENDANTS' MOTION TO  
DISMISS

ORAL ARGUMENT REQUESTED

1 Defendants, JEFF MOSS, an individual (“Mr. Moss”) and DEF CON  
2 Communications, Inc., a Washington corporation (“Def Con”) (collectively referred to  
3 herein as the “Defendants”), by and through their counsel of record, Holland & Hart,  
4 LLP and Perkins Coie LLP, and pursuant to Rules 12(b)(2) and 12(b)(6) of the Federal  
5 Rules of Civil Procedure, hereby move the Court to dismiss the Complaint of Plaintiffs  
6 Christopher Hadnagy and Social-Engineer LLC pursuant to Federal Rules of Civil  
7 Procedure 12(b)(2) (lack of personal jurisdiction) and 12(b)(6) (failure to state a claim).

8 This Motion is supported by the following Memorandum of Points and  
9 Authorities, the papers and pleadings on file in this action, and any oral argument  
10 the Court may allow.

11 DATED this 2nd day of October 2023.

12 **HOLLAND & HART LLP**

13 */s/ Robert J. Cassidy*

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## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. INTRODUCTION

3 Plaintiffs Christopher Hadnagy and Social-Engineer LLC (collectively, “Mr.  
4 Hadnagy”) have once again filed a meritless lawsuit against Mr. Moss and Def Con  
5 concerning the same allegations at issue in a lawsuit that the Eastern District of  
6 Pennsylvania already dismissed. *Hadnagy v. Moss*, No. CV 22-3060, 2023 WL 114689  
7 (E.D. Pa. Jan. 5, 2023). In the Pennsylvania litigation, the district court correctly  
8 concluded that there was no personal jurisdiction in Pennsylvania over a Washington  
9 company and a Washington resident. *Id.* at \*1. Instead of filing a lawsuit *in*  
10 *Washington*, Mr. Hadnagy chose to ignore the district court’s order and file a lawsuit  
11 here in Nevada. But jurisdiction is no more appropriate in Nevada than it was in  
12 Pennsylvania. And the Complaint continues to allege conduct that is neither unlawful  
13 nor actionable.

14        Each year, Defendants Jeff Moss and Def Con host a conference on information  
15 and computer security. The event is known as Def Con, and draws tens of thousands  
16 of attendees annually. Mr. Hadnagy was one of them—until February 9, 2022, when  
17 Def Con issued a statement banning Mr. Hadnagy from future Def Con events. Def  
18 Con had received multiple reports about Mr. Hadnagy violating Def Con’s code of  
19 conduct. After reviewing the allegations, Def Con exercised its First Amendment  
20 right not to associate with Mr. Hadnagy and declined to invite him to the conference.  
21 Def Con posted a two-sentence update on its blog stating as much and added a one-  
22 paragraph update in January 2023 after the Eastern District of Pennsylvania  
23 dismissed Mr. Hadnagy’s case.

24 Mr. Hadnagy has levied from these two statements a dizzying array of  
25 intentional tort claims, including defamation, tortious interference with contracts  
26 both current and prospective, and business disparagement. Mr. Hadnagy also asserts  
27 equitable claims for unjust enrichment and quantum meruit, which are ostensibly  
28 based on his contributions to the Def Con conference. He filed these meritless claims

1 in Nevada because the conference takes place here. As this Motion makes clear, this  
 2 is an abjectly inadequate basis to support personal jurisdiction over Defendants. And  
 3 even if there is jurisdiction, Mr. Hadnagy's claims are inadequately pleaded,  
 4 substantively flawed, and should be dismissed with prejudice under Rule 12(b)(6).<sup>1</sup>

5 **II. BACKGROUND AND PROCEDURAL HISTORY**

6 **A. Factual background**

7 Defendant Jeff Moss is the founder of Def Con, which conducts an annual  
 8 hacker conference in Las Vegas, Nevada (the “Event”). Compl. ¶¶ 2, 3. The Event is  
 9 one of the world’s largest hacker conventions, and it typically hosts professionals to  
 10 speak about IT-related or hacking-related subjects. *Id.* ¶ 37. Attendees include law  
 11 enforcement agencies and representatives from large corporations. *Id.* ¶ 38.

12 Def Con implemented a conference code of conduct (“Code of Conduct”) in 2015.  
 13 *Id.* ¶ 60. The Code of Conduct prohibits “harassment,” which includes “deliberate  
 14 intimidation and targeting individuals in a manner that makes them feel  
 15 uncomfortable, unwelcome, or afraid.”<sup>2</sup> *Id.* The Code of Conduct applies to “everyone,”  
 16 and Def Con explicitly reserves the “right to respond to harassment in the manner  
 17 we deem appropriate, including but not limited to expulsion[.]” *Id.*

18

---

19 <sup>1</sup> Because this is Mr. Hadnagy’s second attempt to hale Defendants into an improper  
 20 and inconvenient jurisdiction, Defendants also intend to file a separate motion to  
 21 transfer this case to the Western District of Washington. The Court may find it more  
 22 efficient to rule on the transfer motion instead of or before ruling on this motion to  
 23 dismiss. Defendants asked Mr. Hadnagy to stipulate to combining these two  
 24 motions—for dismissal and alternatively for transfer—for efficiency’s sake, but Mr.  
 25 Hadnagy refused.

26 <sup>2</sup> A correct copy of the Code of Conduct is attached as Exhibit 1. Mr. Hadnagy relies  
 27 on the Code of Conduct and the Transparency Report (discussed below) in the  
 28 Complaint and, as such, the Court may properly consider them on a motion to  
 dismiss. *See Branch v. Tunnell*, 14 F.3d 449, 453 (9th Cir. 1994) (noting that a court  
 may consider a document whose contents are alleged in a complaint, so long as no  
 party disputes its authenticity), *overruled on other grounds by Galbraith v. County of  
 Santa Clara*, 307 F.3d 1119 (9th Cir. 2002).

1       Starting in 2017, Def Con began to publicly share a summary of incidents that  
 2 happened at the Event for a given year (the “Transparency Report”).<sup>3</sup> Mr. Moss’s  
 3 express hope “[was] that by doing this DEF CON will encourage other conventions to  
 4 duplicate this reporting and share their data so collectively we can shed some light  
 5 on the challenge we face in creating more safe and inclusive events.” *Id.* (typo fixed).

6       The Event hosts a multitude of “villages,” which are breakout sessions that  
 7 invite smaller groups of attendees to participate in cybersecurity challenges and  
 8 demonstrations related to different topics. Compl. ¶ 40. In the past, when he was  
 9 allowed to attend Def Con, Mr. Hadnagy hosted a village focused on social  
 10 engineering (the “SEVillage”). *Id.* ¶¶ 45–46.

11       In January 2022, Def Con informed Mr. Hadnagy that he could not attend or  
 12 participate in future Events based on certain reported violations of the Code of  
 13 Conduct. *Id.* ¶¶ 58–59. On February 9, 2022, Def Con published an updated  
 14 Transparency Report announcing Mr. Hadnagy’s ban from future Events (the “Ban  
 15 Announcement”), which states:

16       We received multiple [Code of Conduct] reports about a DEF CON Village  
 17 leader, Chris Hadnagy of the SE Village. After conversations with the  
 18 reporting parties and Chris, we are confident the severity of the  
 transgressions merits a ban from DEF CON.

19 *Id.* ¶ 58.<sup>4</sup>

20       According to Mr. Hadnagy, Def Con’s decision to exercise its First Amendment  
 21 right not to associate with him caused unnamed third parties to “assume” negative  
 22 things about him. *Id.* ¶¶ 66, 106, 108. A writer for TechTarget.com reported that Mr.  
 23 Hadnagy was banned for “misconduct at the annual Las Vegas gathering”—an  
 24 assertion not present in the Ban Announcement. *Compare id.* ¶¶ 69–72, with *id.* ¶  
 25 58. Mr. Hadnagy alleges that *unnamed* and *unidentified* “actual and potential clients”

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26  
 27       <sup>3</sup> A correct copy of the Transparency Report is attached as Exhibit 2.

28       <sup>4</sup> A correct copy of the Updated Transparency Report is attached as Exhibit 3.

1 began to terminate their relationships with Mr. Hadnagy, citing the Ban  
2 Announcement. *Id.* ¶ 73. Notably, Mr. Hadnagy does not identify these potential  
3 customers, nor does he even identify the contracts at issue—much less explain *how*  
4 *Def Con knew about them.*

5 Mr. Hadnagy also alleges—on information and belief, and without  
6 elaboration—that he was disinvited from another conference (Black Hat) based on  
7 Defendants’ comments. *Id.* ¶ 79.

8 And finally, Defendants posted an update on their website (the “Transparency  
9 Report Update”) in January 2023, following the Eastern District of Pennsylvania’s  
10 dismissal of Mr. Hadnagy’s lawsuit. Mr. Hadnagy alleges that *update* constitutes yet  
11 more defamation. *Id.* ¶ 80.

12 On August 9, 2023, one day before the 2023 Event in Las Vegas, Mr. Hadnagy  
13 filed this lawsuit in Nevada.

14 **B. Procedural history**

15 On August 1, 2022, Mr. Hadnagy initially filed his lawsuit in the Eastern  
16 District of Pennsylvania. *See Hadnagy v. Moss*, No. 2:22-cv-03060-WB, ECF No. 1.  
17 On January 5, 2023, Judge Wendy Beetlestone dismissed Mr. Hadnagy’s lawsuit for  
18 lack of personal jurisdiction. *See, e.g., Hadnagy*, 2023 WL 114689, at \*7 (stating that  
19 the mere fact that the Ban Announcement was “indisputably accessible” in the forum  
20 state did not mean Defendants committed “specific tortious activity expressly aimed  
21 at” the forum state and finding lack of personal jurisdiction). On August 9, 2023, Mr.  
22 Hadnagy filed the instant lawsuit in Nevada state court, which is functionally  
23 identical to the one Judge Beetlestone dismissed in January 2023. On August 29,  
24 2023, Defendants timely removed the lawsuit to this Court under the diversity and  
25 removal statutes. *See 28 U.S.C. § 1332(a); 28 U.S.C. § 1441(a)–(b); ECF No. 1.* On  
26 September 5, 2023, the Court approved the parties’ stipulation extending the filing  
27 deadline for the instant motion. ECF No. 9.

28

1 **III. LEGAL STANDARD**

2 Under Rule 12(b)(2), “[w]hen a defendant moves to dismiss for lack of personal  
 3 jurisdiction, the plaintiff bears the burden of demonstrating that the court has  
 4 jurisdiction over the defendant.” *Pebble Beach Co. v. Caddy*, 453 F.3d 1151, 1154 (9th  
 5 Cir. 2006). Plaintiff cannot “rest on the bare allegations of its complaint,” *Mavrix*  
 6 *Photo, Inc. v. Brand Techs., Inc.*, 647 F.3d 1218, 1223 (9th Cir. 2011), but must “make  
 7 a *prima facie* showing of jurisdictional facts to withstand the motion to dismiss,”  
 8 *Ranza v. Nike, Inc.*, 793 F.3d 1059, 1068 (9th Cir. 2015) (cleaned up).

9 Under Rule 12(b)(6), a court conducts a two-step inquiry to test the legal  
 10 sufficiency of the complaint. First, well-pleaded facts are accepted as true, while mere  
 11 legal conclusions may be disregarded. *Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009).  
 12 Once the well-pleaded factual allegations have been isolated, the court must  
 13 determine whether they are sufficient to show a “plausible claim for relief.” *Id.* at 679.  
 14 A claim “has facial plausibility when the plaintiff pleads factual content that allows  
 15 the court to draw the reasonable inference that the defendant is liable for the  
 16 misconduct alleged.” *Id.* at 678.

17 **IV. THE COURT LACKS PERSONAL JURISDICTION**

18 **A. The Court lacks general or specific personal jurisdiction.**

19 No party—neither Mr. Hadnagy nor Defendants—is based in Nevada, and the  
 20 Court should dismiss these claims because there is no personal jurisdiction in  
 21 Nevada. Personal jurisdiction can be either general or specific. General jurisdiction  
 22 permits the court to exercise jurisdiction over all claims against a defendant because  
 23 the defendant is essentially at home in the forum. *Goodyear Dunlop Tires Operations,*  
 24 *S.A. v. Brown*, 564 U.S. 915, 919 (2011). Specific jurisdiction allows the court to  
 25 exercise jurisdiction only over a defendant’s forum-related activities. *Williams v.*  
 26 *Yamaha Motor Co.*, 851 F.3d 1015, 1023 (9th Cir. 2017). Mr. Hadnagy (quite  
 27 correctly) does not assert that this Court has *general* jurisdiction over Defendants.

1 See Compl. ¶¶ 10–11. So the inquiry turns on whether the Court has *specific*  
2 jurisdiction.

3 A court “will exercise specific jurisdiction over a nonresident defendant only  
4 when three requirements are satisfied: (1) the defendant either purposefully directs  
5 its activities or purposefully avails itself of the benefits afforded by the forum’s laws;  
6 (2) the claim arises out of or relates to the defendant’s forum-related activities; and  
7 (3) the exercise of jurisdiction comports with fair play and substantial justice, i.e., it  
8 is reasonable.” *Id.* (cleaned up). The Ninth Circuit treats purposeful availment and  
9 purposeful direction as separate methods of analysis. Purposeful availment is for  
10 suits sounding in contract, whereas purposeful direction is for suits sounding in tort.  
11 *Wealthy, Inc. v. Cornelia*, No. 2:21-CV-1173 JCM (EJY), 2023 WL 4803776, at \*3 (D.  
12 Nev. July 27, 2023). Intentional torts, like defamation, are subject to the purposeful  
13 direction analysis. *Freestream Aircraft (Bermuda) Ltd. v. Aero Law Grp.*, 905 F.3d  
14 597, 605 (9th Cir. 2018). Courts evaluate purposeful direction under the three-part  
15 effects test articulated in *Calder v. Jones*, 465 U.S. 783 (1984), which requires that  
16 the defendant allegedly have (1) committed an intentional act, (2) expressly aimed at  
17 the forum state, (3) causing harm that the defendant knows is likely to be suffered in  
18 the forum state. *Sessa v. Ancestry.com Operations Inc.*, 561 F. Supp. 3d 1008, 1024  
19 (D. Nev. 2021). By this standard, the Court lacks personal jurisdiction because  
20 Defendants did not “expressly aim” their alleged tortious statements at Nevada.

21 Defendants’ posting of the Ban Announcement and Transparency Report  
22 Update on a website accessible to *everyone everywhere*—including but not limited to  
23 those who live in Nevada—does not pass muster under the effects test, as the recent  
24 case of *Wealthy, Inc. v. Cornelia* makes clear. In *Wealthy*, the plaintiff (not a resident  
25 of Nevada) sued the defendant (not a resident of Nevada) for recording an allegedly  
26 defamatory YouTube video with a third person (a resident of Nevada). 2023 WL  
27 4803776, at \*3–5. The court rejected personal jurisdiction over the defendant because  
28 the video was posted online with the intention of being broadcast *globally*, and the

1 defendant did not specifically intend the statements to harm the plaintiff in Nevada.  
2 *Id.* at \*3. The court found that if the plaintiff were a Nevada resident, the harm would  
3 have been felt in the state, but he was not. *Id.* at \*3–4. The court declined to “exercise  
4 jurisdiction over an action where the requisite nexus was the fact that several  
5 defamatory statements had a proverbial layover in Nevada as they awaited global  
6 publishing on the internet.” *Id.* at \*5.

7 There is not personal jurisdiction here for the same reasons as in *Wealthy*: non-  
8 resident plaintiffs have sued non-resident defendants for statements published online  
9 with nothing more than an incidental connection to Nevada. There is no allegation  
10 that Defendants committed any of their allegedly tortious conduct within the state of  
11 Nevada. *Cf. Freestream Aircraft (Bermuda) Ltd.*, 905 F.3d at 600 (“A defendant who  
12 travels to Nevada and commits an intentional tort there can be sued in that state.”).  
13 There is no allegation—other than extremely vague allegations in Paragraphs 132–  
14 134 that do not pass muster under federal pleading standards—that Defendants had  
15 any awareness of any specific Nevada-based contract that Mr. Hadnagy may have  
16 had. Defendants cannot “expressly aim” their conduct at contracts that they do not  
17 know exist, nor can Defendants know that any resultant harm is likely to be suffered  
18 in Nevada. *See Wealthy*, 2023 WL 4803776, at \*5 (“Without evidence that Nevada  
19 served as the epicenter of harm in this case . . . the *Calder* effects test is not satisfied,  
20 and this court lacks jurisdiction.”).

21 Blog posts on the Def Con blog about Mr. Hadnagy’s conference ban do not  
22 target Nevada. Mr. Hadnagy is trying to bootstrap a straightforward case of alleged  
23 Internet-based defamation with the ancillary point of where the conference takes  
24 place, but the *latter* has nothing to do with where jurisdiction is proper for the *former*.  
25 There is nothing in the Ban Announcement or Transparency Report Update that  
26 specifically targets Nevada residents or encourages Nevada residents to read these  
27 postings. *See Pebble Beach Co.*, 453 F.3d at 1156 (finding fact that website reaches  
28 forum insufficient for jurisdiction); *Cybersell, Inc. v. Cybersell, Inc.*, 130 F.3d 414, 419

1 (9th Cir. 1997) (finding no jurisdiction where there was no evidence that defendant  
 2 targeted forum residents by website). The blog posts make no comment on Mr.  
 3 Hadnagy's alleged Nevada-based contracts or even any actions that Mr. Hadnagy  
 4 may have taken in Nevada. *Cf. Burri L. PA v. Skurla*, 35 F.4th 1207, 1209 (9th Cir.  
 5 2022) (holding that defamation and tortious interference specifically directed at  
 6 *individuals in the forum state about a contract within the forum state* gives rise to  
 7 jurisdiction).

8 In short, nothing about Defendants' blog posts is "expressly aimed" at Nevada,  
 9 and Nevada does not have a unique state-based interest in a case of online defamation  
 10 between nonresident plaintiffs and nonresident defendants with nothing more than  
 11 a passing connection to Nevada. *See Wealthy*, 2023 WL 4803776, at \*3–5. The Court  
 12 should thus dismiss this suit for lack of personal jurisdiction under Rule 12(b)(2).

## 13 V. MR. HADNAGY'S CLAIMS FAIL AS A MATTER OF LAW

### 14 A. The alter ego theory against Mr. Moss should be dismissed.

15 Mr. Hadnagy pleads in an entirely conclusory fashion that Mr. Moss is the alter  
 16 ego of Def Con and is thus "liable for the obligations, debts, and liability of Defendant  
 17 DEF CON arising under this Complaint." Compl. ¶¶ 19–29. Although this does not  
 18 even appear to be a separate cause of action, even if it were this is inadequate to state  
 19 claims against Mr. Moss individually.

20 To pierce the corporate veil, Mr. Hadnagy must show the following: (1) that the  
 21 corporation is influenced and governed by the person asserted to be the alter ego; (2)  
 22 that there is such a unity of interest that one is inseparable from the other; and (3)  
 23 that the facts are such that adherence to the corporate fiction of a separate entity  
 24 would, under the circumstances, sanction fraud or promote injustice. *LFC Mktg.*  
 25 *Group, Inc. v. Loomis*, 116 Nev. 896, 904, 8 P.3d 841 (2000). The corporate cloak is  
 26 not lightly thrown aside. *Casun Inv., A.G. v. Ponder*, No. 2:16-cv-2925-JCM-GWF,  
 27 2020 WL 59812, at \*4 (D. Nev. Jan. 6, 2020). Because fraud is a necessary element of  
 28 the alter ego doctrine, a party pleading alter ego must satisfy the heightened pleading

1 standard of Rule 9(b). *Interactive Fitness, Inc. v. Basu*, No. 2:09-cv-01145-KJD, 2011  
 2 WL 1870597, at \*6 (D. Nev. May 13, 2011).

3 Mr. Hadnagy's alter ego allegations are fatally defective under even Rule 8(a)'s  
 4 notice standard, much less Rule 9(b)'s heightened pleading standard. Mr. Hadnagy  
 5 has done nothing more than plead rote elements of a veil-piercing claim and  
 6 associated factors on information and belief. *See, e.g.*, Compl. ¶ 24(a)–(e). This is  
 7 insufficient to state a *prima facie* case of alter ego liability. *See Henderson v. Hughes*,  
 8 No. 2:16-cv-01837-JAD-CWH, 2017 WL 1900981, at \*4 (D. Nev. May 9, 2017)  
 9 (dismissing alter ego claim where plaintiff properly pleaded elements of claim but did  
 10 not allege sufficient facts to state a plausible claim). The alter ego allegations against  
 11 Mr. Moss should be dismissed for failure to state a claim.

12 **B. The defamation claim fails as a matter of law.**

13 Mr. Hadnagy's defamation claim should be dismissed on two independent  
 14 causation-related grounds: (1) Mr. Hadnagy's alleged harms flow from the fact of his  
 15 ban from Def Con, which is not actionable under the First Amendment; and (2) Mr.  
 16 Hadnagy fails to distinguish between the alleged harm that *Defendants'* statements  
 17 caused as opposed to the other negative public statements that other third parties  
 18 made, such as calling Mr. Hadnagy the "Harvey Weinstein" of the infosec community.  
 19 Compl. ¶ 108. Those other statements were made *by others*—Mr. Hadnagy cannot  
 20 lump together all the causation in an effort to target Def Con.

21 Additionally, Mr. Hadnagy's Black Hat-specific allegations in Paragraphs 78  
 22 and 79 are not plausibly pleaded and should be disregarded. Alternatively, if the  
 23 Court declines to dismiss the defamation claim, the claim should be limited to a  
 24 subset of Defendants' alleged statements to Black Hat representatives described in  
 25 Paragraph 78, as the majority of Defendants' alleged "defamation" is non-defamatory  
 26 in character and constitutes protected opinion.

## 1. Legal standard

To establish a *prima facie* case of defamation, a plaintiff must allege: (1) a false and defamatory statement by the defendant concerning the plaintiff; (2) an unprivileged publication to a third person; (3) fault, amounting to at least negligence; and (4) actual or presumed damages resulting from the publication. *Wynn v. Smith*, 117 Nev. 6, 10, 16 P.3d 424 (2001). A statement is defamatory when it would tend to lower the subject in the estimation of the community, excite derogatory opinions about the subject, and hold the subject up to contempt. *Lubin v. Kunin*, 117 Nev. 107, 111, 17 P.3d 422 (2001). A statement may only be defamatory if it contains a factual assertion that can be proven false. *See Flowers v. Carville*, 112 F. Supp. 2d 1202, 1210 (D. Nev. 2000).

12        Whether a statement is capable of a defamatory construction is a question of  
13 law. *Branda v. Sanford*, 97 Nev. 643, 646, 637 P.2d 1223 (1981). In reviewing an  
14 allegedly defamatory statement, the words must be viewed in their entirety and in  
15 context to determine whether they are susceptible of a defamatory meaning. *Lubin*,  
16 117 Nev. at 111–12. To determine if a statement is one of fact or opinion, “the court  
17 must ask whether a reasonable person would be likely to understand the remark as  
18 an expression of the source’s opinion or as a statement of existing fact.” *Pegasus v.*  
19 *Reno Newspapers, Inc.*, 118 Nev. 706, 715, 57 P.3d 82 (2002).

2. Mr. Hadnagy's defamation claim fails because any alleged harms flow from the fact of Mr. Hadnagy's ban, which is not actionable.

22 Mr. Hadnagy’s defamation claim rests on the following syllogism: (1)  
23 Defendants released a statement that Mr. Hadnagy had been banned from the Event  
24 (Compl. ¶ 58); (2) Defendants had predicated prior bans on sexual misconduct (*id.*  
25 ¶ 67); (3) the tech community therefore assumed that Mr. Hadnagy’s ban was  
26 predicated on sexual misconduct (*id.* ¶¶ 66–67); and (4) Mr. Hadnagy’s’ actual and  
27 potential clients began to terminate their relationships with Mr. Hadnagy, citing  
28 Defendants’ statement about the ban (*id.* ¶ 73). But under Mr. Hadnagy’s syllogism,

1 it is not the *substance* of Defendants' statement that resulted in Mr. Hadnagy's harm,  
 2 but the fact that Defendants made any statement *at all* about Mr. Hadnagy's ban.

3 **That is not defamation.**

4       Imagine instead if on February 9, 2022, Defendants had simply released a  
 5 statement that "Chris Hadnagy has been permanently banned from Def Con." This is  
 6 of course not defamatory, as it is a pure factual statement that cannot be proven false.  
 7 *See Flowers*, 112 F. Supp. 2d at 1210. Yet under Mr. Hadnagy's theory, since  
 8 Defendants only previously issued lifetime Def Con bans for sexual misconduct, the  
 9 *same harms* described in premises (2)–(4) above would have befallen Mr. Hadnagy. It  
 10 is thus the fact that Mr. Hadnagy was banned from Def Con that caused his alleged  
 11 harm, not the allegedly "defamatory" nature of the Ban Announcement. And so long  
 12 as Defendants are not transgressing a constitutionally protected class such as race,  
 13 which they are not here, Defendants have an ironclad First Amendment right to  
 14 associate *or not associate* with whomever they want at their *private* conference. *See*  
 15 *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 648 (2000) (holding First Amendment  
 16 "plainly presupposes a freedom not to associate" for private organizations and that  
 17 "forced inclusion of unwanted person" infringes on that right absent compelling state  
 18 interests); *Corzine v. Laxalt*, No. 3-17-cv-00052-MMD-WGC, 2017 WL 662982, at \*3  
 19 (D. Nev. Feb. 17, 2017) ("Freedom of association is a consequence of the First  
 20 Amendment's textual guarantees.") (cleaned up); *see also Manhattan Cnty. Access*  
 21 *Corp. v. Halleck*, 587 U.S. \_\_\_, 139 S. Ct. 1921, 1930 (2019) (A private actor providing  
 22 a forum for speech "is not a state actor" and "may thus exercise editorial discretion  
 23 over the speech and speakers in the forum."). Mr. Hadnagy's defamation claim  
 24 flounders because the ban itself is the source of his harms, and the fact of the ban is  
 25 not actionable.

26       The defamation claim has a second causation-related problem, too: Mr.  
 27 Hadnagy fails to distinguish between any alleged harm that *Defendants* caused as  
 28 opposed to, for example, "the various false rumors [that] spread rampantly across

1 public forums and social media pages alleging that Plaintiff Hadnagy had committed  
 2 the worst of sexual crimes[,]” or the statement that Mr. Hadnagy was the “Harvey  
 3 Weinstein” of the infosec community. Compl. ¶¶ 68, 108. If *third parties* defamed Mr.  
 4 Hadnagy, then his recourse is against *those individuals*, not Defendants. The  
 5 Complaint also fails to distinguish between other similar statements made by others  
 6 in the tech community, like the TechTarget article that (incorrectly) stated Mr.  
 7 Hadnagy was banned for misconduct at the Def Con conference itself. *Id.* ¶¶ 69–72.  
 8 There are no facts pleaded, nor could Mr. Hadnagy plead such facts, to show that  
 9 Defendants’ statements *in fact* caused the damages Mr. Hadnagy asserts. Mr.  
 10 Hadnagy instead resorts to mere legal conclusions, which are insufficient and which  
 11 his own pleading undermines. *See, e.g., United States v. Alvarez*, 617 F.3d 1198, 1207  
 12 (9th Cir. 2010), *aff’d*, 567 U.S. 709 (2012) (stating that the alleged defamer’s false  
 13 statement must be the proximate cause of the irreparable injury to the plaintiff’s  
 14 reputation).

15 **3. The Black Hat-specific allegations are not plausible.**

16 In a strained effort to preserve some portion of an otherwise dubious  
 17 defamation claim, Mr. Hadnagy alleges—on *information and belief* only—that Mr.  
 18 Hadnagy was disinvited from another conference, Black Hat, because of statements  
 19 made by Mr. Moss. Compl. ¶¶ 78–79. These allegations cannot save the defamation  
 20 claim.

21 There is not a single allegation from which Defendants, or the Court, can  
 22 surmise why Mr. Hadnagy believes Mr. Moss made these alleged statements (much  
 23 less when or how). “Information and belief” pleading is “not talismanic, and a plaintiff  
 24 cannot avoid Rule 12 simply by slapping the ‘information and belief’ label onto  
 25 speculative or conclusory allegations.” *Miller v. City of Los Angeles*, No. CV 13-5148-  
 26 GW(CWX), 2014 WL 12610195, at \*5 (C.D. Cal. Aug. 7, 2014) (citing *Bell Atl. Corp.*  
 27 *v. Twombly*, 550 U.S. 544, 557 (2007)); *Blantz v. California Dep’t of Corr. & Rehab.*,  
 28 *Div. of Corr. Health Care Servs.*, 727 F.3d 917, 926–27 (9th Cir. 2013); *Tarantino v.*

1 *Gawker Media, LLC*, No. 14-CV-603-JFW(FFMx), 2014 WL 2434647, at \*5 n.4 (C.D.  
 2 Cal. Apr. 22, 2014) (collecting cases); Schwarzer, Tashima, et al., *Fed. Prac. and Proc.*  
 3 *Before Trial* (2012) § 8:128.22, at 8-32-33 (“[C]onclusory allegations based on nothing  
 4 more than ‘information and belief’ will not suffice”). Mr. Hadnagy’s conclusory Black  
 5 Hat-related allegations should be dismissed.

6           **4.       Much of the alleged “defamatory” content is not  
 7           actually defamatory.**

8           The defamation claim should be dismissed to the extent it is predicated upon  
 9 the erroneous assumption that the Ban Announcement or Transparency Report  
 10 Update ascribe sexual misconduct to Mr. Hadnagy. Neither statement references  
 11 sexual conduct or even refers to gender identifiers. The Ban Announcement states  
 12 Def Con banned Mr. Hadnagy for Code of Conduct violations, and the Code of Conduct  
 13 prohibits “harassment” generally—which is defined as deliberately intimidating or  
 14 targeting individuals in a manner that makes them feel uncomfortable, unwelcome,  
 15 or afraid. Ex. 1 (Code of Conduct). “Harassment” carries no sexual denotation under  
 16 the Code of Conduct. Mr. Hadnagy admits as much in alleging that third parties had  
 17 to “assume” the conduct was sexual in nature or abhorrent. *See, e.g.*, Compl. ¶¶ 66,  
 18 106, 108.

19           **5.       Much of the alleged “defamatory” content is  
 20           comprised of Defendants’ non-actionable opinions.**

21           The Ban Announcement, the Transparency Report Update, and multiple parts  
 22 of Defendants’ alleged statements to Black Hat representatives in Paragraph 78 are  
 23 non-actionable opinion. Statements of opinion cannot be defamatory because “there  
 24 is no such thing as a false idea. However pernicious an opinion may seem, we depend  
 25 for its correction not on the conscience of judges and juries but on the competition of  
 26 other ideas.” *Pegasus*, 118 Nev. at 714. The Ban Announcement and Transparency  
 27 Report Update comprise Def Con’s opinion about its own investigation of Mr.  
 28 Hadnagy’s behavior. The Ban Announcement notes that conversations occurred with  
 the reporting parties *and* Mr. Hadnagy, and Def Con was *confident* in its opinion, not

1 *certain*. Courts regularly protect more offensive insinuations as protected opinion.  
 2 See, e.g., *Churchill v. Barach*, 863 F. Supp. 1266, 1273 (D. Nev. 1994) (statement that  
 3 airline employee was “rigid, uninformed, incompetent and unhelpful” and “will help  
 4 put [the airline] out of business” was non-actionable opinion); *State v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark*, 118 Nev. 140, 150, 42 P.3d 233 (2002) (law enforcement  
 5 agent’s suggestion that fellow agent’s investigation was “crappy,” “half-assed,” and  
 6 warranted termination of the fellow agent’s employment was non-actionable opinion).  
 7

8 As for the alleged statements to Black Hat representatives in Paragraph 78,  
 9 subparagraphs c (“Defendants determined that the Acts occurred based upon their  
 10 purported investigation and evidence presented.”), f (publication of the Ban  
 11 Announcement), and g (publication of the Transparency Report Update) are protected  
 12 opinion as described above. Thus, even if Mr. Hadnagy’s defamation claim survives  
 13 dismissal on causation grounds and, as to the Black Hat allegations, plausibility  
 14 grounds—which it should not—the claim should be limited to what Defendants  
 15 allegedly told Black Hat in Paragraph 78 a, b, d, and e, and any resultant harm to  
 16 Mr. Hadnagy’s economic relationship with Black Hat.<sup>5</sup>

17 **C. The business disparagement claim should be dismissed.**

18 Mr. Hadnagy fails to plead a claim for business disparagement because none of  
 19 Defendants’ alleged statements concern or even mention Mr. Hadnagy’s or Social-  
 20 Engineer’s products or services. Under Nevada law, a claim for business  
 21 disparagement requires the plaintiff to establish the following elements: “(1) a false  
 22 and disparaging statement; (2) the unprivileged publication by the defendant; (3)  
 23 malice; and (4) special damages.” *Clark County School Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 386, 213 P.3d 496 (2009). While similar to defamation,  
 24 the claims are not identical, in that claims for business disparagement must involve

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25  
 26  
 27  
 28 <sup>5</sup> Mr. Hadnagy has failed to plead plausible facts that Defendants made the statements alleged in these subparagraphs to anyone other than Black Hat representatives.

1 statements “directed towards the quality of the individual’s product or services.”  
 2 *Sentry Ins. v. Estrella Ins. Serv., Inc.*, No. 2:13-CV-169 JCM (GWF), 2013 WL  
 3 2949610, at \*2 (D. Nev. June 13, 2013).

4 Mr. Hadnagy has entirely failed to allege that Defendants impugned the quality  
 5 of his products or services. *See* Compl. ¶¶ 122–29. None of Defendants’ alleged  
 6 statements have anything to do with the quality of either Mr. Hadnagy’s or Social-  
 7 Engineer’s services to their various clients. Mr. Hadnagy’s business disparagement  
 8 claim must be dismissed. *See Sentry Ins.*, 2013 WL 2949610, at \*3 (refusing to  
 9 consider an alleged business disparagement claim because defendants did not make  
 10 statements that attacked plaintiffs’ products or services); *see also LKimmy, Inc. v.*  
 11 *Bank of Am., N.A.*, No. 2:19-cv-1833 JCM (BNW), 2020 WL 13533714, at \*4 (D. Nev.  
 12 June 12, 2020) (dismissing business disparagement claim on motion to dismiss where  
 13 plaintiff’s allegations are “conclusory and a threadbare recitation of the elements”);  
 14 *Kern v. Moulton*, No. 3:11-cv-296-RCJ-PAL, 2012 WL 1682026, at \*4 (D. Nev. May  
 15 11, 2012) (dismissing business disparagement claim where plaintiff “does no more  
 16 than recite the elements of the causes of action and is completely devoid of factual  
 17 allegations”).

18 **D. The tortious interference with contractual relations claim  
 19 should be dismissed.**

20 Under Nevada law, to plead a claim for intentional interference with  
 21 contractual relations, Mr. Hadnagy must allege: “(1) a valid and existing contract; (2)  
 22 the defendant’s knowledge of the contract; (3) intentional acts intended or designed  
 23 to disrupt the contractual relationship; (4) actual disruption of the contract; and (5)  
 24 resulting damage.” *J.J. Indus., LLC v. Bennett*, 119 Nev. 269, 274, 71 P.3d 1264  
 25 (2003). Mr. Hadnagy has failed to plausibly allege the first, second, and third  
 26 elements of the claim.

27 **First**, the plaintiff must identify the specific contract allegedly interfered with  
 28 to survive a motion to dismiss, and Mr. Hadnagy has failed to do so. *See, e.g., Fin.*

1 *Pac. Ins. Co. v. Cruz Excavating, Inc.*, No. 3:10-CV-707-RCJ-VPC, 2011 WL 3022543,  
 2 at \*4 (D. Nev. Jul. 21, 2011) (dismissing claim where party “[did] not state what  
 3 contract they are referring to, who the third party is, or how [defendant] disrupted  
 4 the contractual relationship”). While Mr. Hadnagy alleges that he has “several long-  
 5 term agreements for the provision of Cybersecurity and IT services for various large  
 6 national corporations and law enforcement agencies,” he fails to identify the specific  
 7 contracts or the third parties on the other end of these contracts. Compl. ¶ 131. His  
 8 vague suggestion that Defendants interfered with “any business arrangements” they  
 9 had with unidentified “Cybersecurity conventions” is far too indefinite to support a  
 10 tortious interference claim. *Id.* ¶ 136. Mr. Hadnagy’s generalized and conclusory  
 11 allegations regarding the existence of the alleged contracts are inadequate under  
 12 *Iqbal* and *Twombly*. See *Fin. Pac. Ins. Co.*, 2011 WL 3022543, at \*4 (stating that a  
 13 formulaic recitation of the elements of intentional interference with contract “will not  
 14 do” to survive a motion to dismiss).

15 **Second**, Mr. Hadnagy has failed to plead facts that show Defendants “knew of  
 16 the existing contract, or at the very least, establish facts from which the existence of  
 17 the contract can reasonably be inferred.” *J.J. Indus., LLC*, 119 Nev. at 269. Mr.  
 18 Hadnagy alleges that Defendants knew of these alleged contracts “because a  
 19 considerable portion of Plaintiffs’ business agreements were secured through leads  
 20 generated by way of their operation of the SEVillage.” Compl. ¶¶ 132–33. This is a  
 21 non sequitur. It does not follow that Defendants knew of *specific contracts* merely  
 22 because Defendants allegedly knew the *general* fact that Mr. Hadnagy generated  
 23 business from the Event. Mr. Hadnagy’s allegation that Mr. Moss “has historically  
 24 single-handedly recruited and maintained relationships with contributors and  
 25 attendees at the Event and was aware of Plaintiffs’ clientele who attended the Event”  
 26 fares no better. *Id.* ¶ 134. A *general* awareness of Mr. Hadnagy’s clients does not  
 27 create a plausible inference that Defendants were aware of *specific contracts* with  
 28 those clients.

1       **Third**, Mr. Hadnagy has failed to plead facts to show Defendants intentionally  
 2 disrupted the “several long-term agreements for the provision of Cybersecurity and  
 3 IT services” that Mr. Hadnagy ostensibly had in place. *Id.* ¶ 132; *J.J. Indus., LLC*,  
 4 119 Nev. at 269. The plaintiff must demonstrate that the defendant *intended* to  
 5 induce the other party to breach the contract with the plaintiff. *Blanck v. Hager*, 360  
 6 F. Supp. 2d 1137, 1154 (D. Nev. 2005). Inquiry into the alleged tortfeasor’s motive is  
 7 necessary. *Nat'l Right To Life Pol. Action Comm. v. Friends of Bryan*, 741 F. Supp.  
 8 807, 814 (D. Nev. 1990). Here, Mr. Hadnagy alleges that Defendants have disrupted  
 9 these purported agreements for cybersecurity and IT services to “prevent [Plaintiffs]  
 10 from fostering the SEVillage community, which would have directly competed with  
 11 the Event.” Compl. ¶ 138. But this is nonsensical. Whether Mr. Hadnagy was  
 12 “fostering the SEVillage community” and thereby competing with the Event has  
 13 nothing to do with whether Mr. Hadnagy could perform his contracts with these third  
 14 parties. Mr. Hadnagy has failed to allege any connection between Defendants’ alleged  
 15 hostility to the SEVillage as a competitor and Mr. Hadnagy’s entirely separate “long-  
 16 term agreements for the provision of Cybersecurity and IT services.” The motive Mr.  
 17 Hadnagy ascribes to Defendants to interfere with these contracts is simply not  
 18 plausible.

19       In short, Mr. Hadnagy fails to plead facts that show any of Defendants’ actions  
 20 had the intended consequence of disrupting unidentified third-party contracts, as  
 21 opposed to Def Con’s own—perfectly permissible—decision to discontinue its  
 22 association with Mr. Hadnagy. *See, e.g., Crown Beverages, Inc. v. Sierra Nevada*  
*Brewing Co.*, No. 3:16-cv-00695-MMD-VPC, 2017 WL 1508486, at \*4–5 (D. Nev. Apr.  
 24 26, 2017) (dismissing claim where plaintiff “has not pled any facts that would permit  
 25 the Court to reasonably infer that [defendant] intended to disrupt third-party  
 26 contracts, rather than simply ending its own”).

27       Mr. Hadnagy’s claim for intentional interference with contractual relations is  
 28 not plausible on its face and therefore must be dismissed.

1       **E. The tortious interference with prospective business relations  
2       claim should be dismissed.**

3       To maintain this tortious interference with business relations claim, Mr.  
4 Hadnagy must establish: “(1) a prospective contractual relationship between the  
5 plaintiff and a third party; (2) the defendant’s knowledge of this prospective  
6 relationship; (3) the intent to harm the plaintiff by preventing this relationship; (4)  
7 the absence of privilege or justification by the defendant; and (5) actual harm to the  
8 plaintiff as a result.” *Coffee v. Stolidakis*, No. 2:21-cv-02003-ART-EJY, 2022 WL  
9 2533535, at \*7 (D. Nev. July 6, 2022). Mr. Hadnagy has failed to plausibly allege *any*  
10 of these five elements.

11       *First*, Mr. Hadnagy alleges that he “had been in negotiations with multiple  
12 corporations and government organizations for prospective provision of cybersecurity  
13 and related services in conjunction with business activities and operations,” without  
14 identifying a specific prospective customer. Compl. ¶ 145. But “[t]his court, and other  
15 courts in this district, have regularly held that generalized pleading about  
16 hypothetical consumers is insufficient to survive a motion to dismiss.” *EVIG, LLC v.  
17 Mister Brightside, LLC*, No. 2:23-CV-186 JCM (BNW), 2023 WL 5717291, at \*4 (D.  
18 Nev. Sept. 5, 2023) (granting motion to dismiss where plaintiff failed to “identify a  
19 single customer with whom it had a prospective contract”); *see also Rimini St., v.  
20 Oracle Int’l Corp.*, No. 2:14-cv-1699-LRH-CWH, 2017 WL 5158658, at \*9 (D. Nev.  
21 Nov. 7, 2017) (same); *Coffee*, 2022 WL 2533535, at \*7 (same); *Matthys v. Barrick Gold  
22 of N. Am.*, No. 3:20-cv-00034-LRH-CLB, 2020 WL 7186745, at \*4 (D. Nev. Dec. 4,  
23 2020) (same). “[I]t is essential that the plaintiff plead facts showing that defendant  
24 interfered with plaintiff’s relationship with a *particular* individual. Allegations that  
25 a defendant interfered with the plaintiff’s relationship with an *unidentified* customer  
26 are not sufficient.” *Rimini St.*, 2017 WL 5158658, at \*9 (emphasis added). Here, the  
27 Complaint fails to specifically identify a single third party that Mr. Hadnagy  
28 supposedly had a “prospective” contractual relationship with.

1       **Second**, Defendants cannot know of any prospective relationships with  
2 undisclosed and unidentified “multiple corporations and government organizations,”  
3 and Mr. Hadnagy does not allege otherwise. Mr. Hadnagy merely alleges that  
4 “Defendants had knowledge of the prospective clientele base . . . because a  
5 considerable portion of Plaintiffs’ clients were secured through leads generated by  
6 way of their operation of the SEVillage.” Compl. ¶ 146. But Mr. Hadnagy once again  
7 improperly equates allegations of Defendants’ *general* knowledge that Mr. Hadnagy  
8 developed some business through the Event with Defendants’ knowledge of *specific*  
9 *prospective relationships*. The former does not suffice to establish the latter. Mr.  
10 Hadnagy’s allegation is also implausible—Defendants do not know each and every  
11 attendee’s business dealings at the conference or outside the conference.

12       **Third**, Mr. Hadnagy fails to plead facts that show Defendants published these  
13 statements—that Mr. Hadnagy had violated Def Con’s Code of Conduct and would be  
14 banned from the conference—with the intent to interfere with Mr. Hadnagy’s  
15 (purported) ongoing contractual negotiations. Mr. Hadnagy’s mere recitation of the  
16 elements, *see* Compl. ¶¶ 148–49, does not do the trick. Mr. Hadnagy fails to allege  
17 facts to support a plausible inference that statements published on Def Con’s *own*  
18 website in regard to its *own* Code of Conduct and conference attendance had the  
19 intended purpose of reaching a specific audience, in particular, the “corporations and  
20 government organizations” Mr. Hadnagy supposedly was negotiating with for  
21 services.

22       **Fourth**, Defendants’ supposed “tortious interference” in banning Mr. Hadnagy  
23 is justified because Defendants were protecting their own business interests. Nevada  
24 law has recognized that “[p]rivilege can exist when the defendant acts to protect his  
25 own interests.” *Leavitt v. Leisure Sports, Inc.*, 103 Nev. 81, 88, 734 P.2d 1221 (1987).  
26 Defendants were justified in the ban because they had received reports from multiple  
27 third parties informing them of Mr. Hadnagy’s harassing behavior, and such behavior  
28 violated the conference’s Code of Conduct. Compl. ¶ 58. To protect its own interests—

1 including its First Amendment interest to freely associate with *only* the persons that  
 2 Defendants want involved with the Def Con conference—Def Con banned Mr.  
 3 Hadnagy from the conference. *Id.* ¶¶ 58, 63 n.2. Exercising one’s First Amendment  
 4 rights not to associate cannot be the basis for a claim.

5 ***Fifth***, “to allege actual harm, a plaintiff must allege that he ‘would have been  
 6 awarded the contract but for the defendant’s interference.’” *Rimini*, 2017 WL  
 7 5158658, at \*8. Courts have held that a “plaintiff’s expectation of a future sale [is] at  
 8 most a hope for an economic relationship[,] and a desire for future benefit” does not  
 9 suffice. *Id.* Nowhere in the Complaint does Mr. Hadnagy allege plausible facts that  
 10 he would have been awarded these contracts, or that these prospective “business  
 11 arrangements” would have actually panned out, but for Defendants’ actions. *See, e.g.*,  
 12 Compl. ¶ 150.<sup>6</sup> As currently pleaded, Mr. Hadnagy’s allegations indicate nothing  
 13 more than Mr. Hadnagy’s unfulfilled desire for a future economic relationship with  
 14 unidentified third parties. This is inadequate to state a claim for intentional  
 15 interference with prospective economic relations.

16 **F. The equitable claims and injunctive relief “claim” should be  
 17 dismissed.**

18 Mr. Hadnagy’s equitable claims are meritless. Mr. Hadnagy’s own allegations  
 19 conclusively demonstrate that he did not “unjustly enrich” Defendants through  
 20 creating the SEVillage and had no reasonable expectation of payment related to the  
 21 SEVillage; his quantum meruit claim is wholly irrelevant because this case does not  
 22 involve an implied-in-fact contract; and he has improperly pleaded injunctive relief as  
 23 a standalone claim, which it is not.

24

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25 <sup>6</sup> Mr. Hadnagy’s allegation that Defendants “have in fact actually prevented the  
 26 consummation of several prospective agreements” through their allegedly  
 27 defamatory statements is the kind of conclusory boilerplate, unsupported by plausible  
 28 factual allegations, that Nevada courts reject as inadequate under federal pleading  
 standards. *See Fin. Pac. Ins. Co.*, 2011 WL 3022543, at \*4.

1                   **1. The unjust enrichment claim should be dismissed.**

2                   To assert an unjust enrichment claim, Mr. Hadnagy must establish that he  
 3 conferred a benefit on Defendants, Defendants appreciated such benefit, and there  
 4 was acceptance and retention of the benefit by the Defendants such that it would be  
 5 inequitable for them to retain the benefit without payment of the value thereof. *Korte*  
 6 *Constr. Co. v. State on Rel. of Bd. of Regents of Nev. Sys. of Higher Educ.*, 137 Nev.  
 7 378, 381, 492 P.3d 540 (2021). For an enrichment to be inequitable to retain, the  
 8 person conferring the benefit must have a reasonable expectation of payment and the  
 9 circumstances are such that equity and good conscience require payment for the  
 10 conferred benefit. *Id.* (emphasis added). Mr. Hadnagy fails both prongs.

11                  Defendants *never* induced Mr. Hadnagy to provide the alleged benefits—the  
 12 creation of the SEVillage (and associated capture-the-flag event) and “investing  
 13 substantial resources” into the Event—or promised any kind of payment to  
 14 Defendants for doing so. Mr. Hadnagy does not even allege otherwise. *See* Compl.  
 15 ¶¶ 159–66.

16                  And after Defendants rebuffed Mr. Hadnagy’s payment requests in or around  
 17 2012, *Mr. Hadnagy continued to provide the SEVillage at the Event for years. Compare*  
 18 *Compl. ¶¶ 163 and 50* (Defendants rejected Mr. Hadnagy’s requests for payment but  
 19 changed Event rules in 2012 to allow Mr. Hadnagy to start accepting third-party  
 20 sponsorship compensation), *with Compl. ¶¶ 45, 46, and 58* (Mr. Hadnagy hosted the  
 21 SEVillage in person or virtually from 2010 to 2022). Mr. Hadnagy cannot now suggest  
 22 with a straight face that he reasonably expected Event-related compensation from  
 23 Defendants.

24                  As if that weren’t enough, Mr. Hadnagy admits *he* received significant benefit  
 25 from his involvement in the Event, including “a lot of attention, exposure, and income  
 26 from Sponsorships during the operation of the SEVillage” (Compl. ¶ 50); the  
 27 generation of “a considerable portion of Plaintiffs’ business agreements . . . through  
 28 their operation of the SEVillage” (*id.* ¶ 133); hosting a standalone social engineering

1 convention in 2020 due to “the overwhelmingly positive feedback over the years at  
2 SEVillage” (*id.* ¶ 52); and even procuring a personal meeting with the director of the  
3 National Security Agency (*id.* ¶ 47). These professional and personal benefits explain  
4 why Mr. Hadnagy voluntarily continued to host the SEVillage for years with no  
5 reasonable expectation of payment from Defendants for doing so. Under these  
6 circumstances, equity and good conscience do not require Defendants to make *ex post*  
7 *facto* payments to Mr. Hadnagy that Defendants never even *hinted* at making, let  
8 alone promised to make. Mr. Hadnagy has no plausible claim for unjust enrichment,  
9 and the claim should be dismissed.

10 **2. The quantum meruit claim should be dismissed.**

11 Mr. Hadnagy’s claim for quantum meruit should likewise be dismissed. The  
12 concept of quantum meruit arises in two contexts: contract and restitution. In the  
13 former, quantum meruit applies in an action based upon a contract implied-in-fact,  
14 which is found when the parties intended to contract and promises were exchanged,  
15 the general obligations for which must be sufficiently clear. *Certified Fire Prot. Inc.*  
16 *v. Precision Constr.*, 128 Nev. 371, 381, 283 P.3d 250 (2012). In that circumstance,  
17 quantum meruit may be employed as a gap-filler to supply absent terms. *Sierra Dev.*  
18 *Co. v. Chartwell Advisory Grp., Ltd.*, 325 F. Supp. 3d 1102, 1107 (D. Nev. 2018).  
19 Quantum meruit’s other role is in providing restitution for unjust enrichment. *Id.* In  
20 this circumstance, quantum meruit imposes liability for the market value of services  
21 as a *remedy* for unjust enrichment. *Id.* (citing *Certified Fire Prot. Inc.*, 128 Nev. at  
22 380–81) (emphasis added). The plaintiff must establish each element of unjust  
23 enrichment to demonstrate entitlement to the remedy of quantum meruit. *Id.* at 1107  
24 n.4.

25 As the above makes clear, Mr. Hadnagy’s quantum meruit claim is misplaced.  
26 Mr. Hadnagy has not pleaded an implied-in-fact contract—nor could he, as the parties  
27 had no intention to contract, exchanged no promises, and did not create any  
28 “sufficiently clear” obligations pursuant to these nonexistent promises to contract—

1 and so quantum meruit has no salience as a gap-filler to supply absent terms. And  
2 because Mr. Hadnagy's unjust enrichment claim fails (as outlined above), quantum  
3 meruit's application as a *remedy* for unjust enrichment fails, too.

4 **3. The injunctive relief “claim” should be dismissed.**

5 Injunctive relief is a remedy, not a separate cause of action. *Iliescu, Tr. of John*  
6 *Iliescu, Jr. & Sonnia Iliescu 1992 Fam. Tr. v. Reg'l Transp. Comm'n of Washoe Cnty.*,  
7 522 P.3d 453, 457 (2022) (upholding dismissal of injunctive relief as an independent  
8 cause of action and collecting cases). The injunctive relief “claim” pleaded as the  
9 seventh cause of action should be dismissed.

10 **VI. CONCLUSION**

11 For the foregoing reasons, Defendants respectfully request that the Court  
12 dismiss this case for lack of personal jurisdiction. If the Court finds personal  
13 jurisdiction, Defendants respectfully request that the Court dismiss the claims  
14 against Defendants with prejudice.

15  
16 DATED this 2nd day of October 2023.

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**INDEX OF EXHIBITS**

<b>Exhibit</b>	<b>Description</b>	<b>Page Numbers</b>
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3.	Updated Transparency Report	017-018

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 2nd day of October, 2023, a true and correct copy of the foregoing **DEFENDANTS' MOTION TO DISMISS** was served by the following method(s):

Electronic: by submitting electronically for filing and/or service with the United States District Court, District of Nevada's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

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